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will make an earnest attempt to place them on the table of the House. But the date of the next meeting has not yet been definitely settled and there may be some difficulty."

The motion of the hon. the Law Member was by leave withdrawn.

The motion of Mr. Abdul Hameed Khan was put and carried.

(2) THE TIRUMALAI-TIRUPATI DEVASTHANAMS BILL.

*Diwan Bahadur C. S. RATNASABHAPATI MUDALIYAR:—" Mr. President, Sir, I move that the Tirumalai-Tirupati Devasthanams Bill[a] (Bill No. 15 of 1931), and move that it be referred to the same Select Committee as the one to which the Bill of Mr. Manikkavelu Nayakar has been referred."

Mr. V. M. RAMASWAMI MUDALIYAR:—" I second the motion."

The motion was put and carried.

(3) THE MARUMAKKATTAYAM BILL.

* Mr. R. M. PALAT:—" Mr. President, Sir, I beg to move that the Marumakkattayam Bill[a] (Bill No. 20 of 1931) be referred to a Select Committee consisting of the following Members:—

(1) The hon. Diwan Bahadur Sir M. Krishnan Nayar.
(2) The hon. Diwan Bahadur B. Muniswami Nayudu.
(3) Dr. P. Subbarayan.
(4) Mr. K. P. Raman Menon.
(5) Mr. C. Krishnan.
(6) Mr. P. Madhusoodhanan Thangal.
(7) Khan Bahadur T. M. Moidoo Sahib.
(8) B. Pocker Sahib Bahadur.
(9) Mr. V. P. Narayanan Nambiyar.
(10) Mr. A. B. Shetty.
(11) Mr. U. C. Subrahmanya Bhatt.
(12) Mr. A. Ranganatha Mudaliyar.
(13) Mr. F. E. James.
(14) Diwan Bahadur C. S. Ratnasabhapati Mudaliyar.
(15) Mover.

" As has already been mentioned in this Council last Saturday, this is not the first time that a Bill to alter the Marumakkattayam Law has been before the House. Marumakkattayam Law is the system of law by which rights to property are governed by and solely by relationships traced through females. The essence of inheritance in this system is descent from a female as distinct from descent from a male.

" The late Mr. Justice Muthuswami Ayyar in his memorandum as President of the Malabar Marriage Commission of 1890 describes the Marumakkattayam family or tarwad as follows:—

'It consists of several mothers and children and their descendants in the female line all tracing their descent from a common female ancestor and living

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[a] Published in the *Fort St. George Gazette*, dated 18th August 1931.

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together as a joint family in subjection to the power and under the guidance and control of the senior male for the time being as its head or representative. The link of relationship is descent from a common female ancestor and the bond of family union is subject to a common karnavan. The notion of tarwad property is that the entire family is the owner and that it is impartible except by common consent and that each individual member is entitled to be maintained in his or her tarwad home and to the fruits of joint beneficial enjoyment. The joint family is called a tarwad and each of the mothers and her children and descendants in the female line constituting the tarwad is called a Taivali or the line of a single mother. It is noteworthy that the relation of husband and wife or father and child is not inherent in the conception of a Marummakkattayam family.'

" This is the system of law followed by the ancient ruling families in Malabar, whether Nayars or not, by the leading Mappilla and Thiyya families and their allied castes and by certain Nambudiri Brahmans. This present Bill is confined to certain sections of the non-Brahman Hindus in Malabar and South Kanara. I need not trouble this House with any attempt to show how or why this system became the law among the dominant castes in Malabar and South Kanara. Suffice it to say that whatever the origin of the system, reasons no longer exist for its continuance in its present stage.

" The usage has long ago departed from it except in the tarwads of the ancient chieftains, and a few others with similar pretensions. We see in Sir Muthuswami Ayyar's memorandum:—

'It is noteworthy that the relation of husband and wife or father and child is not inherent in the conception of a Marumakkattayam family,'

while in practice this relationship has become inherent in the people. This is not compatible with the principles of Marumakkattayam. Again, it is not, as Mr. Justice Muthuswami Ayyar says, the descendants of a common female ancestor with subordinate branches or tavazhis of that female and her children who now live together; but the family now more often consists of a father or husband, wife and children living separate from the tarwad. The senior male is not now, as the Judge says, the real head as the females do not live with him but with the husband and the father. The members often do not live under his control and guidance, as he himself often lives away from the tarwad with his wife and children and the other junior male members follow this practice or bring their wives into the tarwad house and the women also live apart with their husbands. They are not therefore maintained in the tarwad home. The learned Judge says, they are entitled to joint beneficial enjoyment. They can generally get it only by litigation.

" Mr. Mayne stated as follows in the preface to his book on Hindu Law:—

'Even in Malabar I have witnessed continued efforts on the part of the natives to cast off their own customs and to deal with their property by partition, alienation, and devise as if it were governed by the ordinary Hindu Law. These efforts were constantly successful in the provincial courts but were invariably foiled on appeal to the Sudder Court at Madras, the objection being frequently taken for the first time by an English Barrister. It so happened that, during the whole time of this silent revolt, the Sudder Court possessed one or more Judges, who were thoroughly acquainted with Malabar customs, and by whom cases from that district were invariably heard. Had the Court been without such special experience, the process would probably have gone on with such rapidity that, by this time, every Malabar tarwad would have been broken up. The revolt would have been a revolution.'

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"This was in 1878. Even by then, Marumakkattayam had begun to be unsatisfactory and it was the English courts that, against the wish of the people, crystallized the then existing customs. I do not blame the courts because it was their duty to administer the law as it stood and not to legislate. Quarrels among the tavazhis and between the karnavan and the members have become incessant and life made unbearable to such an extent that, except from a few karnavans, there is an insistent and strong demand for immediate partition.

12 noon. "The Malabar Marriage Commission of 1890 states the position thus:—

'It (meaning the tarwad) huddles together as a family, a number of distant relatives not necesarily drawn to each other by any bond or affection. It makes home life in the best sense of the word impossible, for the father is a casual visitor and the mother and children are but units in a heterogenous flock dependent on a practically irresponsible guardian who from the mere accident of his being the eldest of the flock is expected to be able to regard every member with an impartial love and to prefer their interests to those of the wife of his bosom and the children of his loins. While attempting to maintain the impartibility of family property, it has been unable to prevent such property from being encumbered in every possible way and the effort to get rid of the encumbrances demoralizes the people to such an extent that Malabar has become notorious for forgery, perjury and reckless litigation. The rule which vests the management of the tarwad property in the eldest male, raises a man to power when he is in his dotage and creates a constant conflict between duty and interest, and by way of climax to the many temptations which invite him to provide for his wife and children by malversation and breach of trust offers him the assurance that he cannot be called to account. Finally, by declaring the right of every member to receive maintenance from the tarwad, from the womb to the grave, junior members are encouraged to pass useless lives in sloth and idleness without effort to better their condition.'

"Such is the picture of the tarwad, as drawn by the Malabar Marriage Commission.

"The conflict between interest and duty arising from the growth of these sentiments and usage cannot be better set forth than in the passage I have already read out. It is now sought to remedy this state of affairs by legislation. In Cochin and Travancore the change in the custom has been recognized and a National Legislature has given effect to it. This Bill follows that legislation. It is a measure of very moderate reform. It enables members of a family to partition from their tarwad subject to this proviso that no member could partition from his branch of the family, during the lifetime of the common ancestress of that branch except with the consent of such ancestress. I have introduced this clause following the precedent existing in Cochin and formerly in Travancore where I understand the law has since been changed and individual partition allowed. In advocating taivali partition in preference to individual partition, I have also been influenced by the pronouncement of Mr. Strange in his Hindu Law that taivali partition was the original basis of partition. The general demand in Malabar goes further than my Bill and demands individual partition as, witness the articles which have been appearing in such Malayalam papers as the *Manorama* and the *Mathrubhumi*, but here besides the example of the Native States, I have acted on the principle that half a loaf is better than no loaf and adopted this expedient to placate the opinion among the elders and to proceed along the line of least

resistance. Again, not to antagonise a certain section of public opinion, I have, on the Cochin and Travancore precedents, exempted certain specific families, such as the Malikhana holders and a few others from the operation of this Bill.

" Although this motive and the Travancore and Cochin example have influenced me in exempting these families, still the chief reason that has guided me in exempting them is that among them the ladies still live in their tarwad houses and are visited by their husbands and that they have not yet begun to live with or visit their husband's homes. Therefore, since the idea of the paternal family is still undeveloped among them, there is neither so much discontent nor demand for reform among them as among the general body of the followers of Marumakkattayam Law.

" This Bill differs from Nambiyar's Bill in that I exclude from the operation of my Bill these families and that I do not deal with marriage. I was glad to note yesterday that Mr. Nambiyar is willing to meet me on the first point. I believe that every Member of this Council either from Malabar or South Kanara, whose community is affected by this Bill is in favour of the changes proposed, and I trust, therefore, that the House would see that no obstacles are placed in the way and that this greatly needed reform is quickly passed into law. In taking this course, the House would merely be following its usual custom of letting through such legislation as is demanded by the community concerned."

Mr. K. P. Raman Menon :—" I second it, Sir."

The hon. Diwan Bahadur Sir M. Krishnan Nayar :—" Sir, I move the amendment which stands in my name, viz :—

> ' *that the Marumakkattayam Bill (Bill No.* 20 *of* 1931) *of Mr. R. M. Palat be circulated for the purpose of eliciting opinion thereon* '.

" My reasons are the same as those which I gave in connexion with my Friend, Mr. Narayanan Nambiyar's Bill. Practically the most important portion of my Friend Mr. Palat's Bill is that which relates to partition, and that is one of the subjects dealt with in Mr. Nambiyar's Bill. So, for the same reasons which I gave at the time when Mr. Nambiyar moved his Bill, I move this amendment."

The hon. Khan Bahadur Sir Mahomed Usman Sahib Bahadur :— " I second it, Sir."

Mr. Abdul Hameed Khan :—" Sir, I move the amendment that stands in my name, that—

> '*the Marumakkattayam Bill (Bill No.* 20 *of* 1931) *of Mr. R. M. Palat be circulated for the purpose of eliciting opinion thereon and that such opinion be obtained and placed on the table of the House before the next meeting of the Council* '."

Mr. Sami Venkatachalam Chetti :—" I second it."

The hon. Diwan Bahadur Sir M. Krishnan Nayar :—" I accept that amendment, Sir, and withdraw mine."

The hon. the Law Member's amendment was by leave withdrawn.

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* The hon. the PRESIDENT:—"I shall now put the amendment of Mr. Hameed Khan to the vote of the House. The question is:—

'*that the Marumakkattayam Bill (Bill No. 20 of 1931) of Mr. R. M. Palat be circulated for the purpose of eliciting opinion thereon and that such opinion be obtained and placed on the table of the House before the next meeting of the Council*'."

The motion was carried.

(4) THE TIRUMALAI-TIRUPATI DEVASTHANAMS BILL.

Mr. K. KOTI REDDI:—"Mr. President, Sir, I move that the Tirumalai-Tirupati Devasthanams Bill[a] (Bill No. 18 of 1931) be referred to the same Select Committee that was appointed for Bill No. 17 of 1931 of my Friend Mr. Manikkavelu Nayakar."

Mr. SAMI VENKATACHALAM CHETTI:—"I second it."

The question was put to the House and carried and the Bill was referred to the same Select Committee.

(5) A BILL TO AMEND THE MADRAS DISTRICT MUNICIPALITIES ACT, 1920, AND THE MADRAS LOCAL BOARDS ACT, 1920.

Mr. F. BIRLEY:—"Mr. President, Sir, I beg to move for leave to introduce a Bill to amend the Madras District Municipalities Act, 1920, and the Madras Local Boards Act, 1920."

Mr. ABDUL HAMEED KHAN:—"I second the motion."

The motion was put and carried.

Mr. F. BIRLEY:—"Mr. President, I beg to introduce the Bill to amend the Madras District Municipalities Act, 1920, and the Madras Local Boards Act, 1920."

THE VISWAKARMAN CHILDREN'S BILL.

The hon. the PRESIDENT:—"Pandit Ganala Ramamurti."

(The hon. Member was not in his place.)

A BILL TO AMEND THE MADRAS CITY MUNICIPAL ACT, 1919.

The hon. the PRESIDENT:—"Mr. V. M. Ramaswami Mudaliyar."

(The hon. Member was not in his place.)

(6) A BILL TO AMEND THE MADRAS DISTRICT MUNICIPALITIES ACT, 1920, AND THE MADRAS LOCAL BOARDS ACT, 1920.

Mr. C. BASU DEV:—"Mr. President, Sir, I beg to move for leave to introduce a Bill to amend the Madras District Municipalities Act, 1920, and the Madras Local Boards Act, 1920."

Mr. P. C. MOSES:—"I second it."

The motion was put and carried.

Mr. C. BASU DEV:—"I now introduce the Bill to amend the Madras District Municipalities Act, 1920, and the Madras Local Boards Act, 1920."

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a Published in the *Fort St. George Gazette*, dated 18th August 1931.